



Norman H. Bangert  
Governor  
Dee C. Hansen  
Executive Director  
Robert L. Morgan  
State Engineer

DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF WATER RIGHTS

1636 West North Temple, Suite 220  
Salt Lake City, Utah 84116-3156  
801-538-7240

*TO well.*  
35,750 ac - unchanged.  
150,21 ac. - a12197 (1992)  
19,87 ac. - a13432 (1991)  
42,38 ac. - a12951 (1991)  
- *stew chp*  
- *David S. Smith* - 11,25 @ 7AF 13,27 @ 15AF  
- Paul Cox 24.5 @ 7AF  
- *David S. Smith* 42.38 @ 7AF  
- *Robert S. Taylor* 18.07 ac @ 7AF  
- *Richard L. S. Smith* 8.35 @ 15  
- *Evergreen* 6.49 @ 15  
- *Robert S. Taylor* 18.07 ac @ 15  
- *Harvey E. S. Smith* 10.89 @ 15  
- *Owen D. Hall* 18.07 @ 15

September 14, 1990

TO USERS OF WATER FROM THE WEST GRADE CANAL AND EAST CANYON CREEK

NOTICE OF AGENCY ACTION PROPOSING REGULATION AND DIVISION OF THE WATERS OF EAST CANYON CREEK AND THE WEST GRADE CANAL

Gentlemen:

Due to an ongoing dispute between rightholders over the division of surface waters in East Canyon Creek, the State Engineer is mailing to you a PROPOSED ORDER which seeks to establish the distribution and division of those waters. This is to affect all rights which divert water from either East Canyon Creek or the West Grade Canal from the separation of the two (2) streams at the new splitter in Section 31 to their confluence near the North East Corner of Section 32, T1S, R4E, SLB&M. The rights which are directly subject to this PROPOSED ORDER are:

| AWARD NUMBER | PRIORITY              | ACRES IRR. | SOURCE                               |
|--------------|-----------------------|------------|--------------------------------------|
| 35-8420      | 420                   | 1861       | 245 East Cyn. Creek<br>E. CANYON CR. |
| 35-8418      | 418 ✓                 | 1861       | 120 West Grade<br>E. CANYON CR.      |
| 35-8415      | 415 ✓                 | 1861       | 80 West Grade                        |
| 35-8435      | 435 - CHANGE TO WELL? | 1870       | 5 West Grade                         |
| 35-8417      | 417* ✓                | 1861       | 54 West Grade                        |
| 35-8419      | 419* ✓                | 1861       | 72.9 West Grade                      |

*Handwritten notes:*  
D.A. OSGUTHORP - 114 AC.  
WALLIN, RAUP - 5 AC.  
JAMES FLETCHER - 1 AC.  
VEIGH COMMINGS - 1 AC.  
EAST CANYON CR. CRAIG HAREN - 45  
EDWARD CLISSOLD - 45  
RALPH WALLIN (TRISTE) (WILLIAM CREEK)  
SECURITY TIME (WILLIAM CREEK) 67.9 AC.  
HARRIS DUNSTON 10.0

\* Supplemental rights from the West Grade Canal

The water is proposed to be distributed as set forth below:

1) When priorities of at least 1870 are being delivered and supplemental rights are being served from their primary sources (are not calling on water from the West Grade Canal), the flow is to be divided 54% to the East Canyon Creek users and 46% to the West Grade Canal users.

2) When 1870 priorities are cut off and supplemental rights are being served from their primary sources (are not calling on water from the West

Grade Canal), the flow is to be divided 55% to the East Canyon Creek users and 45% to the West Grade Canal users.

3) When priorities of at least 1870 are being delivered and supplemental rights are not being served from their primary sources (they are calling for water from the West Grade Canal to fill their rights), the flow is to be divided such that a maximum of 58% shall be sent down the West Grade Canal and a minimum of 42% is to be sent down East Canyon Creek. This scenario represents the maximum percentage of flow to be delivered down the West Grade Canal and the minimum percentage for East Canyon Creek.

4) When 1870 priorities are cut off and supplemental rights are not being served from their primary sources (they are calling for water from the West Grade Canal to fill their rights), the flow is to be divided 57% to the West Grade Canal users and 43% to the East Canyon Creek users.

Supplemental rights (Awards 417 and 419) are required to look first to their primary sources to fill their rights. They may call on supplemental sources as their primary sources diminish and do not fill their rights. This is in accordance with the Weber River Decree, page 12, paragraph 7(d), which says, "Whenever in said Tabulation the term "supplemental" is used, it shall be construed to mean and does mean that the owner of such right has an additional source of supply to fulfill his rights..."

The individual rights affected by this PROPOSED ORDER are entitled to the following percentages of flow when water is being delivered under the third scenario above:

| SOURCE           | AWARD NO. | FLOOD & HIGH FLOW (cfs) | LOW FLOW (cfs) | % of TOTAL |
|------------------|-----------|-------------------------|----------------|------------|
| East Canyon Crk. | 420       | 9.80                    | 3.06           | 100%       |
| West Grade Canal | 415       | 3.20                    | 1.00           | 24.1%      |
|                  | 417       | 2.16                    | 0.68           | 16.4%      |
|                  | 418       | 4.80                    | 1.50           | 36.1%      |
|                  | 419       | 2.92                    | 0.06           | 21.9%      |
|                  | 435       | 0.20                    | 0.06           | 1.5%       |

The West Grade Canal percentages shown above do not take into account the contributions of other sources such as Red Pine Creek. To properly distribute the West Grade Canal, all sources, tributaries and other rights which may be wholly reliant upon those sources must be taken into consideration to properly distribute these waters.

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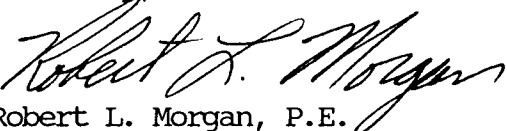
This notice is being prepared in accordance with Section 73-5-3, Utah Code Annotated, 1953, as Amended, which authorizes the State Engineer to divide water among appropriators. This notice also commences an informal adjudicative proceeding to be conducted pursuant to Rules R625-6 of the Administrative rules of the Division of Water Rights.

A hearing to allow public participation in the State Engineer's action on this issue is hereby set for 10:00 a.m. on Wednesday, September 26, 1990, at the Burns Fire Station No. 3 near Kimball Junction. Comments regarding this issue may also be made in writing prior to the date of the hearing at the offices of the State Engineer.

In this proceeding, the State Engineer is not adjudicating the various water rights, but is interpreting the Weber River Decree pursuant to his duties to distribute water as outlined in Section 73-5-3, Utah Code Annotated.

If you have any questions, you may call John Mann at 538-7397.

Sincerely,



Robert L. Morgan, P.E.  
State Engineer

RLM/JRM/11

cc:

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Holladay, UT 84117

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Park City, UT 84060

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Holladay, UT 84121

Edward L. and Irene P. Clissold  
1020 Oak Hills Way  
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Morton Siegel Ltd. Employees Pension Plan and Trust  
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Robert S. Taylor Investment Co.  
Harvey B. Carlisle Investment Co.  
Evergreen Development Co.  
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200 American Savings Plaza  
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